IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPELLANT(s):   D. Salgado et al.

SERIAL NO.:   09/448,804   ART UNIT: 2177

FILING DATE: 11/24/99   EXAMINER: S.Pannala

TITLE: METHOD AND APPARATUS FOR MANAGING SOFTWARE COPYRIGHT YEARS IN A MULTIPLE PLATFORM ELECTRONIC REPROGRAPHICS SYSTEM

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DOCKET NO.:   D/99253; 690-008859-US (PAR)

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ATTENTION: BOARD OF PATENT APPEALS AND INTERFERENCES

SUPPLEMENTAL BRIEF FOR APPELLANT (Reinstatement of Appeal)
(37 C.F.R. §1.192)

This brief is being submitted together with Appellants' Request for Reinstatement of the appeal in regard to the final rejection of the claims in the above-identified patent application.   A Notice of Appeal was mailed to the USPTO on November 1, 2002.   An appeal brief was filed on November 20, 2002, and a Supplemental Appeal Brief in Response to a Notice of Non-Compliance was filed on February 28, 2003.   The Examiner re-opened prosecution with the Office Action (Final) mailed May 23, 2003.   A Petition to Rescind the Finality of that office Action and a Response was filed on August 25, 2003.   Another final action was issued on October 22, 2003. This brief is being filed in triplicate as required by 37 C.F.R. 1.192.   Please charge deposit account 24-0037 for any fee for filing this brief, and

any fee deficiency, although all fees previously paid for this Appeal should be credited to the reinstatement of appeal.

I. REAL PARTY IN INTEREST

The real party in interest in this Appeal is:

Xerox Corporation

II. RELATED APPEALS AND INTERFERENCES

There are no directly related appeals or interferences regarding this application.

III. STATUS OF CLAIMS

Claims 1-14 are pending in the application. All of the pending claims, i.e. claims 1-14, have been finally rejected by the Examiner. The rejection of all pending claims is appealed. A copy of the rejected claims is attached hereto as the Appendix, i.e. IX APPENDIX-REJECTED CLAIMS.

IV. STATUS OF AMENDMENTS

Since the final rejection of October 22, 2003 (Paper No. 18), a Response after Final was filed on December 12, 2003. That amendment was not entered as reflected in the Advisory Action mailed December 24, 2003.

V. SUMMARY OF INVENTION

The present invention relates to a multiple platform architecture data reporting system and, more particularly, to automatic reporting and displaying of information from multiple platforms.

Referring to Fig. 2, a multiple platform architecture data reporting system for managing attribute data in accordance with

the present invention comprises a system manager 22 for collecting attribute data from multiple platforms (pg. 4, lines 5-23), and a user interface 27 connected to the system manager 22 for displaying the collected attribute data to the user (pg. 5, lines 5-11). A "platform" contains its own processor and software (pg. 1, lines 13-15). Each platform can manage its own software copyright information (pg. 1, lines 15-17). Referring to Fig. 3, a method for managing attribute data in a multiple platform architecture in accordance with the features of the present invention comprises the steps of polling at least two platforms 23a, 23b for attribute data (pg. 5, lines 18-19); collecting the attribute data from the at least two platforms in response to the step of polling (pg. 5, lines 17-18, 22-23); and displaying the collected attribute data on a user display (pg. 5, lines 28-29). A software copyright information managing system for managing software copyright data in a multiple platform electronic architecture in accordance with the features of the present invention comprises a system controller for, as illustrated in Figs. 2-5, collecting the software copyright data from multiple platforms (pg. 5, lines 12-22); memory 25 for storing the software copyright data collected by the system controller (pg. 5, lines 1-4, 22-23); and a user interface connected to the system controller for displaying the software copyright data from the memory to a user (pg. 5, lines 5-11, pg. 6, lines 17-19).

Referring to Fig. 2, the copyright management system in accordance with the present invention is generally intended to be used for managing software copyright information and other software attribute data in a document processing apparatus such as a copier, a facsimile machine, a computer printer, a scanner, or some multifunction device (pg. 4, lines 5-13). The copyright

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management system 21 generally comprises a system manager 22, at least two platform controllers 23a, 23b, a memory 25, and a user interface 27 (pg. 5, lines 13-16). The system manager 22 generally comprises any suitable control module designated as the system manager. Referring to Fig. 4, the system manager coordinates the system's platform-wide operations (such as power ON) and owns system level attributes. One attribute is the comprehensive copyright years list for all the platforms that comprise the system (pg. 5, lines 17-23). The platform controllers 23a, 23b generally comprise any suitable module designated as the platform manager. Each platform controller 23a, 23b maintains a list of the software copyright years relevant to the software on its platform. Each platform controller 23a, 23b passes the copyright information to the system manager 22 at power ON or when initiated by a user request from the system manager (pg. 5, lines 24-30). Memory 25 comprises any suitable data storage medium capable of storing information data, such as copyright years as reported by the platform controllers. Memory may be volatile or non-volatile (pg. 6, lines 1-4). The user interface 27 generally comprises a display for displaying copyright information and a user input device for providing instruction to the system manager. The user interface display may be any suitable medium such as a screen or hardcopy printout for displaying copyright information and any suitable user input device such as a keyboard (pg. 6, lines 5-11).

VI. ISSUES

1. Whether claims 1-2 and 12-14 are unpatentable over Misra et al. ("Misra"), (U.S. Patent No. 6,189,146) in view of Nakagawa et al. ("Nakagawa"), (U.S. Patent No. 5,835,911), under 35 USC 103(a).

2. Whether claims 3-11 are unpatentable over Misra in view of Nakagawa and further in view of Menezes et al. (U.S. Patent No. 5,621,894) under 35 U.S.C. 103(a).

VII. GROUPING OF CLAIMS

The claims do not stand or fall together. The Groups are as follows:

Group I-   Claims 1-3, 9, 10 and 6-14

Group II-   Claims 4 and 5

Group III-   Claims 12-14, claim 6

Group IV-   Claims 7, 8, and 11

In accordance with 37 C.F.R. 1.192(c)(7), an explanation of why the claims of the groups are believed to be separately patentable is contained in the argument section below.

VIII.   ARGUMENT

A. Claims 1-2 and 12-14 are not unpatentable over Misra in view of Nakagawa under 35 U.S.C. §103(a).

Claim 1 specifically details a multiple platform architecture data reporting system for managing attribute data comprising a system manager for "collecting attribute data from multiple platforms," and a user interface connected to the system manager for displaying the collected attribute data to a user. Claim 12 details a software copyright information managing system for managing software copyright data in a multiple platform electronic architecture, comprising a system controller for collecting the software copyright data from multiple platforms; and a user interface connected to the system controller for displaying the software copyright data from the memory to a

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user. It is respectfully submitted that there are key and very critical differences between Misra and Nakagawa and Appellants' invention which can only lead to the conclusion that the combination of Misra and Nakagawa fails to disclose or even remotely suggest Appellants' invention. These critical differences include:

1. A controlling element (system manager) that coordinates the collection of attribute and software copyright data;

2. Coordinating information gathering (collecting) across multiple platforms;

3. Consolidating gathered information into a single item for presentation.

Misra relates to a software licensing system. If a company wishes to acquire a software license, it sends a request to the licensing clearing house. A license pack is created and returned to the individual client (Abstract, lines 1-17). The license server can also determine a client's operating system in order to grant the appropriate license (Abstract, lines 17-19).

Nakagawa deals with the distribution and maintenance of software. If a computer detects that a piece of software on the computer is subject to maintenance it can inquire of the vendor of that piece of software for a current version of the software (Abstract, lines 1-12). The system of Misra merely responds to individual client requests. The system of Misra does not coordinate the activities of a number of independent platforms as claimed by Appellants. Misra does not gather data. The system of Misra merely responds to a request for a license and provides the license.

The present invention details an accumulation of similar information (i.e., specifically copyright years) from multiple sources or "platforms," where each "platform" has its own processor and software. Each "platform" manages and maintains its own software copyright information. The information is consolidated into a single piece of information (e.g. a merged copyright list), and presented to a user. This is simply not the subject matter that is taught by Misra in view of Nakagawa.

To support the rejection of claims 1-2 and 12-14 the Examiner has stated:

> "[the] Misra teaching is analogous to a 'system controller for collecting the software copyright data from multiple platforms.'"

Misra is not collecting "attribute data" from "multiple platforms." In Misra, a client needs a license, and must present it to the "intermediate server 32" (Col. 4, lines 49-50). If the client 30 needs a license, it can obtain one from the license server 28 (Col. 4, lines 50-54). Thus, what Misra is presenting is an "automated mechanism for distributing licenses to clients" (Col. 4, lines 53-55). There is no collection of attribute data, or copyright data, from multiple platforms in Misra. Misra does not disclose or suggest multiple platforms as described and claimed by Appellants.

In Misra, a client 30 sends a license purchase request to the clearing house. The license server 28 maintains an inventory of software licenses that have been purchased from the licensing clearing house (i.e. the license server 28 is a DATABASE of purchased licenses.) (Col. 11, line 46 to Col. 12, line 14). Misra is merely a clearing house with a database. Misra is not, unlike Appellants' invention, an aggregator of attributes from

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<u>multiple platforms</u>. Misra is not a connected instance of independent platforms.

A "client" in Misra is not a "platform" as described and claimed by Appellants. A "client" in Misra is merely a user of the system. This is clearly is illustrated with reference to, for example, FIG. 1 of Misra (see also Col. 4, lines 42-48). For example, the client 30 has to connect to the intermediate server and "present a valid license." (Col. 4, lines 49-50). In Appellants' invention, the "platforms" are elements of the system.

In Appellants' invention, the system manager 22 coordinates the system's platform-wide operations and owns system level attributes (Page 4, lines 17-23). The platform controllers 23a, 23b generally comprise any suitable module designated as the platform manager. Each platform controller maintains a list of the software copyright years relevant to the software on its platform (Page 4, lines 24-30). Clients 30 are merely implemented as different kinds of computers – desktop, workstation, laptop, notebook, etc. (Col.5, lines 13-25). Misra does not disclose or suggest that a "client" is analogous to a "platform" as claimed by Appellants.

Misra's patent (and the Examiner's argument) really details a system like a standard ATM banking system. In an ATM banking system, you have a bank clearinghouse (equivalent to the licenser clearinghouse). The banking system has a distributed database of each user's accounts (equivalent to the license server). A client(s) enters a request to the banking clearinghouse using an ATM (equivalent to a client(s) requesting a license from the license clearinghouse). The banking

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clearinghouse gathers a client's account clearinghouse getting the client's data and adding it to the license server.

Furthermore, the Examiner is mistaken in that Misra teaches collecting information relating to software from client. Rather, in Misra, the client sends a "purchase request" (Abstract, Col. 11, lines 46-59). Misra does not poll or collect attribute data from the client.

Referring to the Examiner's statements in paragraph 12D, this argument again falls into the different interpretations of what the "system" is. If clients are considered part of the system, you have an N -> 1 relationship. Such an N -> 1 relationship has existed for many, many years prior to Misra and is the standard relationship found in N users working on (1) database. Appellants' invention refers to multiple "N" software platforms that communicate to a central controller and the controller aggregates each platform's copyright information into a single system wide copyright statement. Misra and Nakagawa detail N instances of a 1-1 data model. In both of these patents, you have (1) computer communicating to one (1) server to acquire data. There is no merging of one computer's data with another computer's data.

From standard object oriented architectures and models, Appellants respectively state that clients are not part of the system, but are instead users of the system. In a standard UML use case diagram or class diagram for the Misra patent or the instant application, clients would be shown as external actors of the system and not an element of the system. The clients 30 are clearly illustrated as being outside the system (See FIGS. 1 and 3). The multiple platforms are independent objects. Misra does not gather "attributes" as claimed by Appellants (FIG. 2).

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Furthermore, Misra does not disclose or suggest a user interface connected to the system manager for displaying the collected attributed data to a user. Misra merely states that a display device is connected to the system (Col. 6, lines 15-16). Misra makes no mention that "attribute data from multiple platforms" is collected and is displayed over a user interface.

The Examiner goes on to state with regard to Nakagawa that "Misra does not explicitly teach software distribution over [a] network," and that Nakagawa teaches this limitation (Page 3, paragraph 4 of Office Action mailed Oct. 22, 2003). Appellants' invention as recited in claims 1 and 12 relates to a system manager for collecting attribute data from multiple platforms, or collecting "software copyright data." This has nothing to do with software distribution as described in Nakagawa. In Nakagawa, if a piece of software needs updating, the latest version of the software can be provided (Col. 8, lines 39-47). Appellants' invention on the other hand, deals with collecting the copyright data. Copyright years can be noticed for software, and software updates. However, collecting this attribute data is not the same as distributing software. Copyright data is generally comprised of copyright years (Pg. 6, lines 9-10). Thus, Nakagawa does not disclose or suggest collecting attribute data.

It is also submitted there is not motivation to modify or combine the references as proposed by the Examiner. In order to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a), there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. There must also be a

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reasonable expectation of success, and the reference(s), when combined, must teach or suggest all of the claim limitations. (See M.P.E.P. §2142). As noted above, Misra in view of Nakagawa does not disclose or suggest each feature of Appellants' invention as claimed. Thus, at least for this reason, a *prima facie* case of obviousness cannot be established.

Also, the Examiner's proposition that Appellants' invention would be obvious as recited in the claims is not supported by the factual contents of Misra and Nakagawa. The Examiner states, on page 3 of Paper No. 18, that "it would have been obvious to one ordinarily skilled in the data processing art at the time of the invention [to] decide to incorporate multiple software users. Distribution and maintenance of software license is necessary [to] provide latest versions of software and to eliminate unauthorized usage of the software." However, this seemingly fails to understand the focus of claim 1 and Appellants' invention. Claim 1 recites collecting attribute data from multiple platforms. Appellants' invention is not distributing software or maintaining software. Misra is directed to requesting and receiving a software license. There is no collection of attribute data from multiple platforms in Misra as claimed by Appellants. Nakagawa is directed to maintaining software sets and providing version updates. There is nothing in Nakagawa that would suggest collecting attribute data from multiple platforms or displaying the collected attribute data. At most, one using the system of Nakagawa might download an updated version of software from a single platform. The combination of Misra and Nakagawa will not lead to Appellants' invention. There is nothing in Misra that would suggest collecting attribute data from multiple platforms. There is no disclosure in either Misra or Nakagawa that would

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lead one to combine the two references to obtain a system that collects attribute data from multiple platforms. Thus, the reference themselves and/or the knowledge generally available to one of skill in the art does not provide the requisite motivation or suggestion to modify the references as proposed for purposes of 35 U.S.C. §103(a). When "the PTO asserts that there is an explicit or implicit teaching or suggestion in the prior art, it must indicate where such a teaching or suggestion appears in the reference". In re Rijckaert, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993). Appellants' invention is not directed to the distribution and maintenance of software, which is the proposed motivation suggested by the Examiner. Thus, it is submitted that there is no motivation to combine the references as proposed and a prima facie case of obviousness over Misra in view of Nakagawa under 35 U.S.C. §103(a) is not established.

Appellants also respectfully note that Misra and Nakagawa have been combined improperly. References may be combined under 35 U.S.C. §103(a) only if the references are analogous art. In this case Misra and Nakagawa are not analogous art. A reference is analogous art if:

1) The reference is in the same field of endeavor as the Appellants', or

2) The reference is reasonably pertinent to the particular problem with which the Appellants were concerned.

Neither Misra nor Nakagawa are in the same field as the Appellants' invention.

Misra is directed to a user requesting and obtaining a software license. A client must send a purchase request for a license when it wants to obtain a license (Abstract, lines 4-6).

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Appellants' invention is not directed to purchasing a license or copyright data, and as such is non-analogous. Nakagawa is directed to software version updates. Nakagawa does not collect attribute data from multiple platforms. Rather, at most Nakagawa collects version information related to a piece of software or a computer. If an update is available, the software on that computer can be updated. Nakagawa is not directed to purchasing licenses as in Misra, and is also not collecting attribute data across multiple platforms and then displaying the collected attribute data to the user. Appellants' invention is directed to automatic reporting and displaying of information and in particular to collecting software copyright data from multiple platforms (Pg. 3, lines 1-7). Thus, Nakagawa is not in the same field or endeavor and Misra and Nakagawa do not address the problems addressed by Appellants' invention. Since Misra and Nakagawa are not in the same field of endeavor as the Appellants' endeavor and are not reasonably pertinent to the particular problem with which the Appellants were concerned, Misra and Nakagawa are not analogous art. Therefore, Misra may not properly be combined with Nakagawa for purposes of 35 U.S.C. §103(a). Thus, claims 1,2 and 12-14 should be allowable over Misra in view of Nakagawa.

Claim 2 is not unpatentable over Misra in view of Nakagawa. Claim 2 depends from claim 1 and should be allowable at least in view of the dependency. Also, claim 2 recites a "memory for storing attribute data collected by the system manager." Neither Misra nor Nakagawa disclose or suggest a memory for storing attribute data by the system manager. In Appellants' invention, the attribute data is collected from multiple platforms. As noted previously, neither Misra nor Nakagawa collect attribute data across multiple platforms or store attribute information

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from multiple platforms. The Examiner is incorrect that Misra collects software copyright data from multiple platforms. In Misra, the only platform referred to is the client platform (Col. 6, lines 50-64).

Independent claim 12 is not unpatentable over Misra in view of Nakagawa for similar reasons as those stated with regards to claim 1. Claim 12 recites collecting "software copyright data from multiple platforms." Neither Misra nor Nakagawa, or the combination thereof, discloses or suggests collecting "software copyright data" from "multiple platforms." Thus, claim 12 should be allowable.

Claims 13 and 14 depend from claim 12 and should be allowable at least in view of the dependencies, as well as the fact that neither Misra nor Nakagawa disclose or suggest storing software copyright data collected by the system controller, which is collected from multiple platforms. Therefore, claims 13 and 14 are not unpatentable.

B. Claims 3-11 are not unpatentable over Misra in view of Nakagawa and further in view of Menezes et al. ("Menezes"), U.S. Patent No. 5,621,894.

Claim 3 recites "polling at least two platforms for attribute data." Nothing of the sort is disclosed or suggested by Misra. "Polling" as the term is defined in NEWTON'S TELECOM DICTIONARY, 18th Edition, copy attached, relates to connecting to another system to check for things like mail or news. It can be a "form of data or fax network arrangement whereby a central computer or fax machine asks each remote location in turn (and very quickly)

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whether they want to send some information." The system of Misra refers to a request handler that waits for a request (the exact opposite of a polling concept) and an authenticating module that is awakened by the request handler (Col. 10, lines 30-37). In Misra, a user sends a request for a license. Some databases are checked to verify authenticity of the request and send the license. However, there is certainly no polling going on in Misra. Column 10, lines 30-37 merely describe how the request handler 122 "receives requests for software licenses from clients." This is not the same as polling.

Nakagawa also does not disclose or suggest polling for attribute data as is claimed by Appellants. Nakagawa merely determines if the proper version of a software program is present. Thus, neither Misra nor Nakagawa teach anything even remotely to the "polling" described and claimed by Appellants.

Menezes merely describes that the system 10 includes a Polling Capability Group that describes the ability of the receiving Fax machine to respond to polling requests (Col. 16, lines 43-45). Menezes does not, however, disclose or suggest "polling at least two platforms for attribute data" as is claimed by Appellants. Menezes merely discloses a single user polling another user to request a document. It does not disclose or suggest polling multiple platforms or the aggregation of polling data as described and claimed by Appellants.

It is respectfully submitted that there is absolutely no disclosure in either Misra, Nakagawa or Menezes related to gathering attributes from independent platforms or polling at least two platforms for attribute data.

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There is also no motivation to combine Misra and Nakagawa with
Menezes to achieve Appellant's invention. Menezes is related to
data exchange between a first computer and a receiving computer
(Abstract). Misra is related to obtaining a license and
Nakagawa is directed to updating software versions.

None of the references deal with polling platforms for attribute
data such as copyright information or license information,
collecting that data and then displaying it as recited in claim
3. One would not be motivated to use a reference related to
determining exchange capabilities together with a reference
pertaining to obtaining a license and one pertaining to updating
software, to poll platforms for attribute data, collect the
attribute data and display the attribute data. At most it might
be conceivable that the combination would result in determining
the proper data format for a license or software update.
However, this is not Appellant's invention as described and
claimed.

Claim 4 is also not disclosed or suggested by the combination of
Misra, Nakagawa and Menezes. Claim 4 depends from claim 3 and
should be allowable at least in view of the dependency.
Furthermore, claim 4 recites automatically polling at least two
platforms during power on of at least one of the at least two
platforms. No such disclosure is made in the combination of
Misra, Nakagawa or Menezes. Column 17, lines 56-67 states that
a user can request a document or file, or the Application
Capabilities can be "requested" by the user or automatically.
This does not state that "polling" of "at least two platforms"
will occur on "power-on." "Polling", as will be understood, is
a technically different concept than "requesting".

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Claim 5 depends from claim 3 and should be allowable by virtue of this dependency. Furthermore, none of the references alone or in combination disclose "polling" as claimed by Appellants or "polling" that is "initiated by a user request." Thus, claim 5 should be patentable.

Claim 6 depends from claim 3 and should be allowable at least by reason of that dependency. Furthermore, claim 6 recites collecting copyright information. None of the cited references disclose the collection of copyright data, or collecting copyright data from at least two platforms. Misra, at column 14, lines 14-29, only talks about searching for a "suitable license from a license server that appears on the list." This says nothing at all about "copyright" information as claimed by Appellants. Nakagawa provides software version updates. This is not the collection of software copyright data. Menezes determines data processing capabilities - which has nothing to do with copyright data collection. Thus, claim 6 should not be unpatentable.

Claim 7 depends from claim 3 and should be allowable at least in view of the dependency. There is also no disclosure in any of the references relating to collecting license information from the at least two platforms. In Misra, the license for only one platform is in question. Nakagawa does not deal with obtaining license information, but rather updating old software. Menezes does not deal with licenses at all. Thus, claim 7 should be allowable.

Claim 8 depends from claim 3 and should be allowable. Referring to the discussion with respect to claim 2, attribute data as

claimed and described by Appellants is not disclosed or suggested by the references. Thus, claim 8 should be allowable.

Claims 9 and 10 should also be allowable in view of their dependencies on claim 3. Also, there is nothing disclosed or suggested in any of the references related to displaying attribute data as recited and claimed by Appellants. Thus, claims 9 and 10 should be allowable.

With regard to claim 11, none of the references, either alone or in combination, disclose or suggest displaying "non-common" attribute data.

The arguments related to the improper combination of Misra and Nakagawa are equally applicable to the rejection of claims 3-11. Thus, claims 3-11 are not unpatentable over Misra and Nakagawa, in view of Menezes under 35 U.S.C. §103(a).

It is respectfully submitted that the ultimate determination of obviousness is a question of law. See In re Leuders, 111 F. 3d 1569, 1571, 42USPQ2d 1481, 1482 (Fed. Cir. 1997). The factual predicates underlying an obviousness determination include the scope and content of the prior art, the differences between the prior art and the claimed invention, and the level of ordinary skill in the art. See Monarch Knitting Mach. Corp. v. Sulzer Morat GmbH, 139 F.3d 877, 881, 45 USPQ2d 1977, 1981 (Fed. Cir. 1998).

To reject claims in an application under section 103, an Examiner must show an unrebutted *prima facie* case of obviousness. See In re Deuel, 51 F.3d 1552, 1557, 34 USPQ2d 1210, 1214 (Fed. Cir. 1995). In the absence of a proper *prima*

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facie case of obviousness, an Applicant who complies with the other statutory requirements is entitled to a patent. See <u>In re Oetiker</u>, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). It is respectfully submitted that the Examiner has not met the required legal standards for a valid rejection under 35 U.S.C. 103.

It is also respectfully submitted that the Examiner has simply not set forth the necessary factual evidence to support a proper rejection of the claims under 35 U.S.C. 103(a). As stated in <u>In re Lee</u> 61 USPQ2d 1430 @ page 1433:

> [1] As applied to the determination of patentability vel non when the issue is obviousness, "it is fundamental that rejections under 35 U.S.C. §103 must be based on evidence comprehended by the language of that section." <u>In re Grasselli</u>, 713 F2d 731, 739, 218 USPQ 769, 775 (Fed. Cir. 1983). The essential factual evidence on the issue of obviousness is set forth in <u>Graham v. John Deere Co.</u>, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966) and extensive ensuing precedent. The patent examination process centers on prior art and the analysis thereof. When patentability turns on the question of obviousness, the search for and analysis of the prior art includes evidence relevant to the finding of whether there is a teaching, motivation, or suggestion to select and combine the references relied on as evidence of obviousness. See, e.g., <u>McGinley v. Franklin Sports, Inc.</u> 262 F.3d 1339, 1351-52, 60 USPQ2d 1001, 1008 (Fed. Cir. 2001) ("the central question is whether there is reason to combine [the] references," a question of the fact drawing on the Graham factors).

> "The factual inquiry whether to combine references must be thorough and searching." Id. It must be based on objective evidence of record. This precedent has been reinforced in myriad decisions, and cannot be dispensed with. See, e.g., <u>Brown & Williamson Tobacco Corp. v. Philip Morris Inc.</u>, 229 F.3d 1120, 1124-25, 56 USPQ2d, 1456, 1459 (Fed. Cir. 2000) ("a showing of a suggestion, teaching or motivation to combine the prior art references is an 'essential component of an obviousness holding'") (quoting <u>C.R. Bard, Inc., v. M3 Systems, Inc.</u>, 157 F.3d 1340, 1352, 48 USPQ2d 1225, 1232 (Fed. Cir. 1998)); In re

Dembiczak, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999).
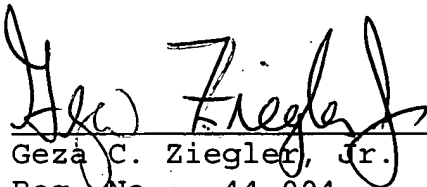
The Examiner has not met the necessary legal requirements for the type of evidence required for a valid rejection under 35 U.S.C. 103 (a). In re Lee, 61 USPQ2d 1430 (CAFC, 2002).

Therefore, the Examiners rejection of claims 1, 2 and 12-14 over Misra and Nakawaga, and claims 3-11 over Misra, Nakagawa and Menezes, under 35 U.S.C. §103(a), should be reversed and all the claims allowed.

CONCLUSION

In view of the arguments presented above, it is respectfully requested that the Examiner's rejections of claim 1-14 be reversed.

Respectfully submitted,

(signature)

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IX. APPENDIX OF CLAIMS

The texts of the claims involved in the appeal are as follows:

1.   A multiple platform architecture data reporting system for managing attribute data, the system comprising:

   a system manager for collecting attribute data from multiple platforms; and

   a user interface connected to the system manager for displaying the collected attribute data to a user.

2.   A multiple platform architecture data reporting system as in claim 1 wherein the system manager comprises memory for storing attribute data collected by the system manager.

3.   A method for managing attribute data in a multiple platform architecture, the method comprising the steps of:

   polling at least two platforms for attribute data;

   collecting the attribute data from the at least two platforms in response to the step of polling; and

   displaying the collected attribute data on a user display.

4.   A method as in claim 3 wherein the step of polling at least two platforms for attribute data further comprises the step of

automatically polling the at least two platforms during power on of at least one of the at least two platforms.

5.   A method as in claim 3 wherein the step of polling at least two platforms for attribute data further comprises the step of polling at least one of the at least two platforms when polling is initiated by a user request.

6.   A method as in claim 3 wherein the step of collecting the attribute data from the at least two platforms in response to the step of polling further comprises the step of collecting the copyright information from the at least two platforms.

7.   A method as in claim 3 wherein the step of collecting the attribute data from the at least two platforms in response to the step of polling further comprises the step of collecting the license information from the at least two platforms.

8.   A method as in claim 3 wherein the step of collecting the attribute data from the at least two platforms in response to the step of polling further comprises the step of storing the attribute data in non-volatile memory.

9.   A method as in claim 3 wherein the step of displaying the collected attribute data on a user display further comprises the step of automatically displaying the attribute data collected from the at least two platforms.

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10. A method as in claim 3 wherein the step of displaying the collected attribute data on a user display further comprises the step of manually displaying the attribute data collected from the at least two platforms.

11. A method as in claim 3 wherein the step of displaying the collected attribute data on a user display further comprises the step of displaying only non-common attribute data collected from the at least two platforms.

12. A software copyright information managing system for managing software copyright data in a multiple platform electronic architecture, the system comprising:

   a system controller for collecting the software copyright data from multiple platforms;

   a user interface connected to the system controller for displaying the software copyright data from the memory to a user.

13. A software copyright information managing system as in claim 12 wherein the system controller for collecting the software copyright data from multiple platforms further comprises a memory for storing the software copyright data collected by the system controller.

14. A software copyright information managing system as in claim 13 wherein the memory for storing the software copyright

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data collected by the system controller further comprises non-volatile memory.

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ber of trunks you will need, while Erlang B typically underestimates the number of trunks you will need. There are other more complex but more accurate ways of figuring trunks — Erlang C (blocked calls delayed or queued) and computer simulation. Poisson has been used extensively by AT&T to recommend to its customers the number of trunks they needed. Since AT&T was selling the circuits and preferred its customers to have excellent service, it made sense to use the Poisson formula. As competition in long distance has heated up, as circuits have become more costly and as companies have become more economically-minded (more aware of their rising phone bills), Poisson has become widely ignored.

After I wrote the above definition, Lee Goeller, a noted traffic engineering expert contributed the following definition of Poisson Distribution: A probability distribution developed by E.C. Molina of AT&T in the early 1900s for use in solving problems in telephone traffic (see TRAFFIC ENGINEERING), although it has many other uses and is widely applied in many fields. When made aware of Poisson's prior effort (circa 1820), Molina gave him full credit and even taught himself French so he could read Poisson in the original. The Poisson distribution assumes a call is in the system for one holding time, whether it is served or not (blocked calls held); the first form of the distribution estimates the probability that exactly X calls will be in the system, while the second estimates the probability that X or more calls will be present. If there are only X trunks to serve the calls, the second form gives the probability of blocking. Although limited tabulations of the Poisson distribution had been made earlier, Molina published an extensive set of tables in 1942. The Poisson distribution slightly overstates the number of trunks needed when compared to the Erlang B distribution (see Erlang B).

Poisson Process A kind of random process based on simplified mathematical assumptions which makes the development of complex probability functions easier. In traffic theory, the arrival of telephone calls for service is considered a Poisson process. Calls arrive "individually and collectively at random," and the probability of a new call arriving in any time interval is independent of the number of calls already present. A Poisson process should not be confused with the Poisson Distribution, which gives the probability that a certain number of calls will be present if certain additional assumptions are made. See Poisson Distribution.

Poke-Through Method A distribution method that involves drilling a hole through the floor and poking cables through to terminal equipment from the ceiling space of the floor below. See also Ceiling Distribution Systems and Newton.

Poke-Through System Penetrations through the fire-resistive floor structure to permit the installation of horizontal telecommunications cables.

Polar Keying A transmission technique for digital signals in which the current flows in opposite directions for 1s and 0s or marks and spaces. It is used in telegraph signaling. It is also known as polar transmission.

Polar Plot A 360-degree graph measuring direction by angle and levels using concentric circles.

Polar Relay A relay containing a permanent magnet that centers the armature. The direction of movement of the armature is governed by the direction of current flow.

Polarity Which side of an electrical circuit is the positive? Which is the negative? Polarity is the term describing which is which. Knowing polarity is not critical with rotary phones. They will work irrespective of which way the telephone circuit's polarity is. Touchtone phones, however, need correct polarity for their touchtone pads to work. How to tell? If you can receive an incoming call, can speak on the phone clearly, but can't "break" dial tone by touching a digit on your touchtone pad, then the polarity of your line is reversed. Simply reverse the red and green wires. Some electronic phones behind PBXs and key systems are also sensitive to polarity. If in doubt, simply reverse the wires. In video, reversed polarity results in a negative picture.

Polarization Polarization is the direction of electric field in a radiated wave. This direction may be constant or may rotate as the wave propagates (resulting in linear, circular or elliptical polarizations). Polarization considerations apply whether a signal is transmitted (or received) in air, cable, fiber, waveguide or other transmission media. Polarization matters because it is one factor in determining how much energy an antenna receives from an incoming signal. If the polarization of the receiving antenna matches the polarization of the incident wave, no energy lost due to polarization mismatch (such an antenna and wave are referred to as "co-polarized"). However, where the polarization of the receiving antenna is orthogonal to the polarization of an incident wave, no energy will be received by the receiving antenna (such an antenna and wave are referred to as "cross-polarized"). The interesting thing is that cross-polarization can occur between an antenna with vertical linear polarization versus a wave with horizontal linear polarization, as well as

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between waves/antennas with left/right handed circular polarizations. Consequently, polarization is a major consideration in antenna system design. Thanks to Paul Chandler for help on this definition.

Polarization Beam Combiner PBC. A PBC is capable of combining pump laser inputs with orthogonal polarization states. A PBC combines the signal strength of two low-powered 14XX nanometer pump lasers, producing a signal with double the power. PBCs can be used in both EDFAs and Raman amplifier modules, achieving higher output power from less costly, more readily available pump lasers. See Laser and Raman Amplifier.

Polarmount A polarmount is a moveable dish antenna mount that allows a dish to be moved to different satellites. Azimuth and elevation are automatically adjusted as the dish moves.

Pole Attachment Cost to cable TV, cellular provider and other telecom operators (including end users) to rent space to attach cables to telephone company and power company poles. There are charges and often significant restrictions on the attachment of your cable to their pole.

Pole Hug See Spurring Out.

Policy Decision Point See COPS and PDP.

Policy Enforcement Point See PEP.

Policy Routing Protocol An extension of Vector Distance Protocols used in router networks. Used primarily in Internet routers, Policy Routing Protocols determine the route of a packet in consideration of "permissions" and reciprocal business contracts between and among backbone carriers, ISPs and Internet Access Providers. In other words, the route is determined on the basis of non-technical policy, rather than the number of hops a packet must travel. Assuming that the intercarrier policy accepts the offered traffic, the packet is routed based on technical considerations according to Vector Distance Protocols. Examples of Policy Routing Protocols include BGP (Border Gateway Protocol) and IDRP (InterDomain Routing Protocol). See also Distance Vector Protocol, Link-State Protocol, and Router.

Policy-Based Networking Also known as Policy-Based Routing (PBR) and Policy-Based Network Management (PBNM). A traffic management concept involving the establishment of priorities for network traffic based on parameters such as traffic type, application, and user ID. ATM does a great job of policy-based networking as a result of QoS (Quality of Service) levels. RSVP (Resource ReserVation Protocol) from the IETF is emerging as a solution to managing traffic priorities over the Internet. Policy-based networking can be implemented in capable switches, routers and servers. See also OOPS, RSVP and QoS.

Policy-Based Quality of Service A network service that provides the ability to prioritize different types of traffic and manage bandwidth over a network.

Polishing Preparing a fiber end by moving the end over an abrasive material.

Politeness The most acceptable hypocrisy. Mostly seen before the sale.

Political File Records required by Section 76.207 which relate to origination cablecasts by, or on behalf of, candidates for public office. This rule requires each cable television system to keep a record, in its PIF, of all requests for cablecast time, together with detailed supporting information.

Politically Correct PC. The art of saying something totally bland when a good insult would be more satisfying, and more deserved.

Politician John Maynard Keynes said that politicians are apt to be slaves to the ideas of long-deceased economists. John Kenneth Galbraith defined economists as people who didn't have the personality to become accountants.

Politics 1. A clash of self-interests masquerading as a clash of principles.
2. The technique by which most telephone systems are bought in large corporations.

Poll In data communications, an individual control message from a central controller to an individual station on a multipoint network inviting that station to send if it has any traffic to send. See Polling.

Poll Cycle The complete sequence in which stations are polled on a polled network.

Poll/Final Bit Bit in HDLC frame control field. If frame is a command, bit is a poll bit asking station to reply. If frame is a response, bit is a final bit identifying last frame in message.

Polling Connecting to another system to check for things like mail or news. A form of data or fax network arrangement whereby a central computer or fax machine asks each remote location in turn (and very quickly) whether they want to send some information. The purpose is to give each user or each remote data terminal an opportunity to transmit and receive information on a circuit or using facilities which are being shared. Polling is typically used on a multipoint or multidrop line. Polling is done to save money on telephone lines.

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